

SENATE SUBSTITUTE  
FOR  
HOUSE COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 152  
AN ACT

To repeal sections 650.050, 650.052, and 650.055, RSMo,  
and to enact in lieu thereof three new sections  
relating to the DNA profiling system, with penalty  
provisions.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,  
AS FOLLOWS:

1           Section A. Sections 650.050, 650.052, and 650.055, RSMo,  
2           are repealed and three new sections enacted in lieu thereof, to  
3           be known as sections 650.050, 650.052, and 650.055, to read as  
4           follows:

5           650.050. 1. The Missouri department of public safety shall  
6           develop and establish a "DNA Profiling System", referred to in  
7           sections 650.050 to 650.100 as the system to assist federal,  
8           state, and local criminal justice and law enforcement agencies in  
9           the identification, investigation, and prosecution of individuals  
10          as well as the identification of missing or unidentified persons.

11          2. This DNA profiling system shall consist of qualified  
12          Missouri forensic laboratories approved by the Federal Bureau of  
13          Investigation.

14          3. The Missouri state highway patrol crime laboratory shall  
15          be the administrator of the state's DNA index system.

16          4. The DNA profiling system as established in this section

1 shall be compatible with that used by the Federal Bureau of  
2 Investigation to ensure that DNA records are fully exchangeable  
3 between DNA laboratories and that quality assurance standards  
4 issued by the director of the Federal Bureau of Investigation are  
5 applied and performed.

6 5. DNA samples obtained under sections 650.050 to 650.100  
7 shall only be analyzed consistent with sections 650.050 to  
8 650.100 and applicable federal laws and regulations.

9 650.052. 1. The state's DNA profiling system shall:

10 (1) Assist federal, state and local criminal justice and  
11 law enforcement agencies in the identification, detection or  
12 exclusion of individuals who are subjects of the investigation or  
13 prosecution of criminal offenses in which biological evidence is  
14 recovered or obtained; and

15 (2) If personally identifiable information is removed,  
16 support development of forensic validation studies, forensic  
17 protocols, and the establishment and maintenance of a population  
18 statistics database for federal, state, or local crime  
19 laboratories of law enforcement agencies; and

20 (3) Assist in the recovery or identification of human  
21 remains from mass disasters, or for other humanitarian purposes,  
22 including identification of missing persons.

23 2. The Missouri state highway patrol shall act as the  
24 central repository for the DNA profiling system and shall  
25 collaborate with the Federal Bureau of Investigation and other  
26 criminal justice agencies relating to the state's participation  
27 in CODIS and the National DNA Index System or in any DNA  
28 database.

1           3. The Missouri state highway patrol may promulgate rules  
2 and regulations to implement the provisions of sections 650.050  
3 to 650.100 in accordance with Federal Bureau of Investigation  
4 recommendations for the form and manner of collection of blood or  
5 other scientifically accepted biological samples and other  
6 procedures for the operation of sections 650.050 to 650.100. No  
7 rule or portion of a rule promulgated pursuant to the authority  
8 of this section shall become effective unless it has been  
9 promulgated pursuant to the provisions of section 536.024, RSMo.

10          4. The Missouri state highway patrol shall provide the  
11 necessary components for collection of the [convicted] offender's  
12 biological samples. For qualified offenders as defined by  
13 section 650.055 who are under custody and control of the  
14 department of corrections, the DNA sample collection shall be  
15 performed by the department of corrections and the division of  
16 probation and parole, or their authorized designee or contracted  
17 third party. For qualified offenders as defined by section  
18 650.055 who are under custody and control of a county jail, the  
19 DNA sample collections shall be performed by the county jail or  
20 its authorized designee or contracted third party. For qualified  
21 offenders as defined by section 650.055 who are under the custody  
22 and control of companies contracted by the county or court to  
23 perform supervision and/or treatment of the offender, the  
24 sheriff's department of the county assigned to the offender shall  
25 perform the DNA sample collection. The specimens shall  
26 thereafter be forwarded to the Missouri state highway patrol  
27 crime laboratory. Any DNA profiling analysis or collection of  
28 DNA samples by the state or any county performed pursuant to

1 sections 650.050 to 650.100 shall be subject to appropriations.

2 5. The state's participating forensic DNA laboratories  
3 shall meet quality assurance standards specified by the Missouri  
4 state highway patrol crime laboratory and the Federal Bureau of  
5 Investigation to ensure quality DNA identification records  
6 submitted to the central repository.

7 6. The state's participating forensic DNA laboratories may  
8 provide the system for identification purposes to criminal  
9 justice, law enforcement officials and prosecutors in the  
10 preparation and utilization of DNA evidence for presentation in  
11 court and provide expert testimony in court on DNA evidentiary  
12 issues.

13 7. The department of public safety shall have the authority  
14 to promulgate rules and regulations to carry out the provisions  
15 of sections 650.050 to 650.100. Any rule or portion of a rule,  
16 as that term is defined in section 536.010, RSMo, that is created  
17 under the authority delegated in this section shall become  
18 effective only if it complies with and is subject to all of the  
19 provisions of chapter 536, RSMo, and, if applicable, section  
20 536.028, RSMo. This section and chapter 536, RSMo, are  
21 nonseverable and if any of the powers vested with the general  
22 assembly pursuant to chapter 536, RSMo, to review, to delay the  
23 effective date, or to disapprove and annul a rule are  
24 subsequently held unconstitutional, then the grant of rulemaking  
25 authority and any rule proposed or adopted after August 28, 2004,  
26 shall be invalid and void.

27 650.055. 1. Every individual, in a Missouri circuit court,  
28 who pleads guilty to, or is found guilty of a felony or any

1 offense under chapter 566, RSMo, or who is seventeen years of age  
2 or older and who is arrested for burglary in the first degree  
3 under section 569.160, RSMo, or burglary in the second degree  
4 under section 569.170, RSMo, or a felony offense under chapters  
5 565, 566, 567, 568, or 573, RSMo, or has been determined beyond a  
6 reasonable doubt to be a sexually violent predator pursuant to  
7 sections 632.480 to 632.513, RSMo, shall have a blood or  
8 scientifically accepted biological sample collected for purposes  
9 of DNA profiling analysis:

10 (1) Upon booking at a county jail or detention facility; or

11 (2) Upon entering or before release from the department of  
12 corrections reception and diagnostic centers; or

13 ~~[(2)]~~ (3) Upon entering or before release from a county  
14 jail or detention facility, state correctional facility, or any  
15 other detention facility or institution, whether operated by  
16 private, local, or state agency, or any mental health facility if  
17 committed as a sexually violent predator pursuant to sections  
18 632.480 to 632.513, RSMo; or

19 ~~[(3)]~~ (4) When the state accepts a person from another  
20 state under any interstate compact, or under any other reciprocal  
21 agreement with any county, state, or federal agency, or any other  
22 provision of law, whether or not the person is confined or  
23 released, the acceptance is conditional on the person providing a  
24 DNA sample if the person was convicted of, pleaded guilty to, or  
25 pleaded nolo contendere to an offense in any other jurisdiction  
26 which would be considered a qualifying offense as defined in this  
27 section if committed in this state, or if the person was  
28 convicted of, pleaded guilty to, or pleaded nolo contendere to

1 any equivalent offense in any other jurisdiction; or

2 [(4)] (5) If such individual is under the jurisdiction of  
3 the department of corrections. Such jurisdiction includes  
4 persons currently incarcerated, persons on probation, as defined  
5 in section 217.650, RSMo, and on parole, as also defined in  
6 section 217.650, RSMo.

7 2. The Missouri state highway patrol and department of  
8 corrections shall be responsible for ensuring adherence to the  
9 law. Any person required to provide a DNA sample pursuant to  
10 this section shall be required to provide such sample, without  
11 the right of refusal, at a collection site designated by the  
12 Missouri state highway patrol and the department of corrections.  
13 Authorized personnel collecting or assisting in the collection of  
14 samples shall not be liable in any civil or criminal action when  
15 the act is performed in a reasonable manner. Such force may be  
16 used as necessary to the effectual carrying out and application  
17 of such processes and operations. The enforcement of these  
18 provisions by the authorities in charge of state correctional  
19 institutions and others having custody or jurisdiction over those  
20 who have been arrested for, convicted of, pleaded guilty to, or  
21 pleaded nolo contendere to felony offenses which shall not be set  
22 aside or reversed is hereby made mandatory. The board of  
23 probation or parole shall recommend that an individual who  
24 refuses to provide a DNA sample have his or her probation or  
25 parole revoked. In the event that a person's DNA sample is not  
26 adequate for any reason, the person shall provide another sample  
27 for analysis.

28 3. The procedure and rules for the collection, analysis,

1 storage, expungement, use of DNA database records and privacy  
2 concerns shall not conflict with procedures and rules applicable  
3 to the Missouri DNA profiling system and the Federal Bureau of  
4 Investigation's DNA databank system.

5 4. Unauthorized uses or dissemination of individually  
6 identifiable DNA information in a database for purposes other  
7 than criminal justice or law enforcement is a class A  
8 misdemeanor.

9 5. Implementation of sections 650.050 to 650.100 shall be  
10 subject to future appropriations to keep Missouri's DNA system  
11 compatible with the Federal Bureau of Investigation's DNA  
12 databank system.

13 6. All DNA records and biological materials retained in the  
14 DNA profiling system are considered closed records pursuant to  
15 chapter 610, RSMo. All records containing any information held  
16 or maintained by any person or by any agency, department, or  
17 political subdivision of the state concerning an individual's DNA  
18 profile shall be strictly confidential and shall not be  
19 disclosed, except to:

20 (1) Peace officers, as defined in section 590.010, RSMo,  
21 and other employees of law enforcement agencies who need to  
22 obtain such records to perform their public duties;

23 (2) The attorney general or any assistant attorneys general  
24 acting on his or her behalf, as defined in chapter 27, RSMo;

25 (3) Prosecuting attorneys or circuit attorneys as defined  
26 in chapter 56, RSMo, and their employees who need to obtain such  
27 records to perform their public duties; [or]

28 (4) The individual whose DNA sample has been collected, or

1 his or her attorney; or

2 (5) Associate circuit judges, circuit judges, judges of the  
3 courts of appeals, supreme court judges, and their employees who  
4 need to obtain such records to perform their public duties.

5 7. Any person who obtains records pursuant to the  
6 provisions of this section shall use such records only for  
7 investigative and prosecutorial purposes, including but not  
8 limited to use at any criminal trial, hearing, or proceeding; or  
9 for law enforcement identification purposes, including  
10 identification of human remains. Such records shall be  
11 considered strictly confidential and shall only be released as  
12 authorized by this section.

13 8. Within ninety days of warrant refusal, the arresting  
14 agency shall notify the Missouri state highway patrol crime  
15 laboratory which shall expunge all DNA records taken at the  
16 arrest for which the warrant was refused in the database  
17 pertaining to the person and destroy the DNA sample of the  
18 person, unless the Missouri state highway patrol determines that  
19 the person is otherwise obligated to submit a DNA sample. An  
20 individual may request expungement of his or her DNA sample and  
21 DNA profile through the court issuing the reversal or dismissal.  
22 A certified copy of the court order establishing that such  
23 conviction has been reversed or guilty plea or plea of nolo  
24 contendere has been set aside shall be sent to the Missouri state  
25 highway patrol crime laboratory. Upon receipt of the court  
26 order, the laboratory will determine that the requesting  
27 individual has no other qualifying offense as a result of any  
28 separate plea or conviction prior to expungement.

1           (1) A person whose DNA record or DNA profile has been  
2 included in the state DNA database in accordance with this  
3 section, section 488.5050, RSMo, and sections 650.050, 650.052,  
4 and 650.100 may request expungement on the grounds that the  
5 conviction has been reversed, or the guilty plea or plea of nolo  
6 contendere on which the authority for including that person's DNA  
7 record or DNA profile was based has been set aside.

8           (2) Upon receipt of a written request for expungement, a  
9 certified copy of the final court order reversing the conviction  
10 or setting aside the plea and any other information necessary to  
11 ascertain the validity of the request, the Missouri state highway  
12 patrol crime laboratory shall expunge all DNA records and  
13 identifiable information in the database pertaining to the person  
14 and destroy the DNA sample of the person, unless the Missouri  
15 state highway patrol determines that the person is otherwise  
16 obligated to submit a DNA sample. Within thirty days after the  
17 receipt of the court order, the Missouri state highway patrol  
18 shall notify the individual that it has expunged his or her DNA  
19 sample and DNA profile, or the basis for its determination that  
20 the person is otherwise obligated to submit a DNA sample.

21           (3) The Missouri state highway patrol is not required to  
22 destroy any item of physical evidence obtained from a DNA sample  
23 if evidence relating to another person would thereby be  
24 destroyed.

25           (4) Any identification, warrant, arrest, or evidentiary use  
26 of a DNA match derived from the database shall not be excluded or  
27 suppressed from evidence, nor shall any conviction be invalidated  
28 or reversed or plea set aside due to the failure to expunge or a

1 delay in expunging DNA records.

2 9. When a DNA sample is taken of an arrestee for any  
3 offense listed under subsection 1 of this section and charges are  
4 filed:

5 (1) If the charges are later withdrawn, the prosecutor  
6 shall notify the state highway patrol crime laboratory that such  
7 charges have been withdrawn;

8 (2) If the case is dismissed, the court shall notify the  
9 state highway patrol crime laboratory of such dismissal;

10 (3) If the court finds at the preliminary hearing that  
11 there is no probable cause that the defendant committed the  
12 offense, the court shall notify the state highway patrol crime  
13 laboratory of such finding;

14 (4) If the defendant is found not guilty, the court shall  
15 notify the state highway patrol crime laboratory of such verdict.

16  
17 If the state highway patrol crime laboratory receives notice  
18 under this subsection that the charges have been withdrawn, the  
19 case has been dismissed, there is a finding that the necessary  
20 probable cause does not exist, or the defendant is found not  
21 guilty, such crime laboratory shall expunge the DNA sample and  
22 DNA profile of the arrestee within thirty days. Prior to such  
23 expungement, the state highway patrol crime laboratory shall  
24 determine whether the individual has any other qualifying  
25 offenses or arrests that would require a DNA sample to be taken  
26 and retained prior to expungement under this subsection.